

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

**Proposing rule making related to endow Iowa tax credits
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 47, “Endow Iowa Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15E.305.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15E.305 as amended by 2022 Iowa Acts, House File 2317, section 48.

Purpose and Summary

The Authority administers the Endow Iowa tax credit pursuant to Iowa Code sections 15E.301 to 15E.303 and 15E.305. The program offers a tax credit of up to 25 percent of an endowment gift to a qualified community foundation.

The proposed amendments represent a comprehensive update of Chapter 47. Changes include the following:

1. Implement a change from 2022 Iowa Acts, House File 2317, section 48, to the maximum amount of tax credit that an individual taxpayer may claim. The maximum was previously 5 percent of the aggregate amount of tax credits available each year. For tax years beginning on or after January 1, 2023, the maximum will be \$100,000.
2. Eliminate a tax credit waitlist for applications received on or after July 1, 2023.
3. Add a requirement that a donor submit a tax credit application within 12 months of a qualifying donation.
4. Rescind rule 261—47.5(15E) regarding reporting requirements because it is inconsistent with the Iowa Code.
5. Make other corrective and clarifying changes.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on November 8, 2022. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 261—47.2(15E) as follows:

261—47.2(15E) Definitions.

~~“Act” means Iowa Code sections 15E.301 to 15E.306.~~

“Authority” means the economic development authority.

“Community affiliate organization” means a group of five or more community leaders or advocates organized for the purpose of increasing philanthropic activity in an identified community or geographic area in the state with the intention of establishing a community affiliate endowment fund.

“Endow Iowa qualified community foundation” means a community foundation organized or operating in this state that substantially complies with the national standards for U.S. community foundations established by the National Council on Foundations as determined by the authority in collaboration with the Iowa Council of Foundations.

“Endowment gift” means an irrevocable contribution to a permanent endowment held by an endow Iowa qualified community foundation.

“Permanent endowment fund” means a fund held in an endow Iowa qualifying community foundation to provide benefit to charitable causes in the state of Iowa. Endowed funds are intended to exist in perpetuity, and to implement an annual spend rate not to exceed 5 percent.

“Tax credit” means the amount a taxpayer may claim against the taxes imposed in Iowa Code chapter 422, ~~divisions subchapters II, III, and V,~~ and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section ~~533.24~~ 533.329.

ITEM 2. Amend rule 261—47.3(15E) as follows:

261—47.3(15E) Authorization of tax credits to taxpayers. The authority shall authorize tax credits to qualified taxpayers who provide an endowment gift to an endow Iowa qualified community foundation or a community affiliate organization affiliated with an endow Iowa qualified community foundation for a permanent endowment fund within the state of Iowa in accordance with the following provisions:

47.3(1) Approved tax credits shall be allowed against taxes imposed in Iowa Code chapter 422, ~~divisions subchapters II, III, and V,~~ and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section ~~533.24~~ 533.329.

~~47.3(2) Beginning January 1, 2010, approved tax~~ Tax credits will be equal to 25 percent of a taxpayer's gift to a permanent endowment held in an endow Iowa qualified community foundation. The amount of the endowment gift for which the endow Iowa tax credit is claimed shall not be deductible in determining taxable income for state income tax purposes.

~~47.3(3) The aggregate amount of tax credits available under this rule annually is limited according to Iowa Code section 15E.305, subsection 2 \$6 million. The aggregate amount is determined by taking a base authorization amount specified in Iowa Code section 15E.305, subsection 2, paragraph "a," and adding an additional amount to be determined annually by calculating a certain percentage of the state's gambling revenues, as provided in Iowa Code section 99F.11, subsection 3, paragraph "d," subparagraph (3), for the prior fiscal year. For calendar year 2011 and for all subsequent calendar years, the annual base authorization amount of available tax credits is \$3.5 million. The additional amount varies each year according to the amount of gambling revenues collected in the prior year. For 2012, the aggregate amount of available tax credits is \$4,642,945. The~~ For tax credits issued on or before December 31, 2022, the maximum amount of tax credit that may be granted to an individual taxpayer ~~may claim~~ is limited to 5 percent of the aggregate amount available each year. For 2012, the maximum amount of tax credit available to a single taxpayer is \$232,147.25 tax credits issued on or after January 1, 2023, the maximum amount of tax credit that may be granted to an individual taxpayer is limited to \$100,000. If the authority receives applications for tax credits in excess of the amount available, the applications shall be prioritized by the date the authority received the applications. If Applications received on or before June 30, 2023, will be placed on a waitlist for a subsequent year's allocation of tax credits if the number of applications exceeds the amount of annual tax credits available, the authority shall establish a wait list for the next year's allocation of tax credits and applications. Applications placed on the waitlist shall first be funded in the order listed on the wait list waitlist. Applications received on or after July 1, 2023, in excess of the amount of tax credits available will not be placed on the waitlist and will be denied by the authority. A taxpayer shall submit an application to the authority for the tax credit no later than 12 months from the date of the donation which qualifies the taxpayer for the tax credit.

~~47.3(4) Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever occurs first. To receive the tax credit, a donor shall file a claim with the department of revenue in accordance with any applicable administrative rules adopted by the department.~~

~~47.3(5) A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.~~

~~47.3(6) A tax credit shall not be transferable to any other taxpayer.~~

ITEM 3. Rescind rule ~~261—47.5(15E)~~.

ITEM 4. Amend ~~261—Chapter 47~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~15E.301 to 15E.306 as amended by 2011 Iowa Acts, Senate File 302~~ 15E.301 to 15E.303 and 15E.305 as amended by 2022 Iowa Acts, House File 2317.